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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,004

12/29/2004

Raymond Hallot

33900-169PUS

7014

27799

7590

01/12/2011

COHEN, PONTANI, LIEBERMAN & PAVANE LLP  
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SUITE 1210  
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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

01/12/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Supplemental  
Notice of Allowability**

Application No.

10/520,004

Examiner

James F. Hook

Applicant(s)

HALLOT ET AL.

Art Unit

3754

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response of December 2, 2010.
2. ☒ The allowed claim(s) is/are 1-6,9-29 and 34.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date ____     | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|  | 9. <input type="checkbox"/> Other ____.   |

### **SUPPLEMENTAL EXAMINER'S AMENDMENT**

The previous office action of September 2, 2010 is hereby vacated and the following amendment is to replace that of September 2, 2010.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claims:

Cancel claims 30-33.

In claim 13, line 1, delete "7" and insert therefore --1--.

The claims are being canceled as being drawn to a non-elected invention and species which were held as withdrawn without traverse, there being no further traversal up to the point of allowance the claims were therefore held as withdrawn without traverse.

With respect to claim 13, such was dependent from claim 7 which is canceled and the subject matter was made part of claim 1, therefore it is believed that such was

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intended to be dependent from claim 1 and has been amended to correct this obvious oversight.

It should be noted that the subject matter of claims 3-5, 9, 15-23, 25, 26, 28, and 29 have been rejoined as being dependent upon an allowed generic independent claim either directly or indirectly, where such are drawn to alternate species. The argument presented on December 2, 2010 is considered persuasive with regards to the rejoinder of these claims.

With respect to claims 30-33, MPEP 821.03 and 821.04 set forth that in order for claims to be rejoined they must meet certain criteria. While claim 30 makes reference to claim 1, it is not a proper dependent claim as required by 112 4th paragraph, specifically claim 30 does not appear to require all the limitations of claim 1, where claim 30 appears to be directed to the subcombination of claim 1 having an insulating cover and protective case of claim 30 and does not require various limitations of claim 1 such as a plurality of prefabricated containers or even that such are filled with phase change material. Therefore, such is not considered to be properly dependent from claim 1. Also, as per MPEP 821.04 further states that failure to amend withdrawn claims to require limitations of the elected invention and that "failure to do so may result in a loss of the right to rejoinder". In this instance since such has none of the limitations of claim 1 as set forth above, these claims are not rejoined as a matter of right. However, the remaining claims that were previously withdrawn are being rejoined as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH